

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 171 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAHENDRA RATILAL MODI

Versus

STATE OF GUJARAT

Appearance:

MR SV RAJU for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 02/04/98

ORAL JUDGEMENT

1. Heard Mr.S.V.Raju appearing for petitioner.
Rule. Ld.APP-Mr.A.J.Desai appears in response to notice issued vide earlier order on behalf of respondents and waives service of rule on behalf of respondents.

2. The petitioner has approached this court with

allegations against the respondent No.2 that the respondent No.2 is biased to the petitioner and thereby he is not conducting the investigation properly in the matter of I.C.R.No.415/97 registered with the Kadi Police Station. The petitioner has thereby prayed that the investigation of the said offence may be transferred from respondent No.2 to anyother appropriate agency and pending the disposal of this petition further proceedings in respect to said offence may be stayed.

3. Vide earlier order dated 26.3.98 the Ld.APP was directed to collect report from the investigation officer in respect to allegations made by the petitioner in the present petitio. The Ld.APP has shown to me the dairy maintained by the respondent No.2 and also report made by respondent No.2 in respect to investigation of the subject matter and conduct of the present petitioner. The facts and circumstances stated in the police dairy by the respondent No.2 suggest that the investigation of the subject matter is being carried out in accordance with the prescribed procedure. However, according to the respondent No.2 on account of noncooperation of the present petitioner the investigation has not progressed. Under the circumstances, it would be just and proper if the petitioner is directed to appear before the superior officer of the respondent No.2 to give his statement or explanation in respect to the said offence registered with Kadi Police station and to direct the respondent No.2 and his superior officer to complete the investigation in the said offence within a prescribed period. That on enquiry being made I am told that the petitioner is willing to appear before the superior officer on 15.4.98.

4. In view of the above stated discussion, the Police Inspector, Kadi Police Station, Dist.Mehsana is hereby directed to record the statement of the petitioner-Mahendra Ratilal Modi in respect to offence registered vide I.C.R.No.415/97. The PI, Kadi Police Station is further directed to see that the respondent No.2 completes the remaining investigation of the said offence within a period of 8 weeks from 15.4.98. The petitioner is directed to appear before the PI, Kadi Police Station on 15.4.98 between 8.00 AM and 12.00 noon to give his statement. The PI, Kadi Police Station is directed not to arrest the petitioner till 15.4.98 and to give protection to the petitioner in case the petitioner claims by giving application in writing. Rule is made absolute accordingly. No costs.

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